

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA**

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

MACA.No. 2384 of 2010 ()

(AGAINST THE AWARD INOPMV 386/2003 of MACT, PALAKKAD)

APPELLANT(S)/RESPONDENTS 1 & 2::

- 1. P.V.DHAMODHARAN NAIR,
S/O.PARUKUTTY AMMA, RAM NIVAS, EDAYAR STREET
PALAKKAD, PIN-678 012.**
- 2. JANARDHANAN, S/O.APPU,
MANTHRIKKADU HOUSE, KOTTEKKAD, KALLEPULLY P.O.
PALAKKAD-678 007.**

BY ADV. SRIP.K.MOHANAN(PALAKKAD)

RESPONDENT(S):

- 1. YASODHA, W/O.LATE VASU,
CHANDANAPARAMBU VEEDU, PALAPPALLAM, CHITTUR POST
PALAKKAD DISTRICT, PIN-678 101.**
- 2. SANTHOSHKUMARI, D/O.LATE VASU,
CHANDANAPARAMBU VEEDU, PALAPPALLAM, CHITTUR POST
PALAKKAD DISTRICT, PIN-678 101.**
- 3. KASTHURU BAI @ REENA,
D/O.LATE VASU, CHANDANAPARAMBU VEEDU, PALAPPALLAM
CHITTUR POST, PALAKKAD DISTRICT, PIN-678 101.**
- 4. KAVITHA @ KAVITHAKUMARI,
D/O.LATE VASU, CHANDANAPARAMBU VEEDU, PALAPPALLAM
CHITTUR POST, PALAKKAD DISTRICT, PIN-678 101.**

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**5. THE NEW INDIA ASSURANCE CO.LTD,
BRANCH OFFICE, M.A.LANE, T.B.ROAD
PALAKKAD, PIN-678 101.**

R-R5 BY ADV. SRIP.K.BABU

R5 BY ADV. SRI.RAJANP.KALLIATH(B/O,NO MEMO)

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

MACA.No. 2384 of 2010 ()

APPENDIX

PETITIONERS EXHIBITS

NIL

RESPONDENTS ANNEXURES

ANNEXURE R5(A) COPY OF THE LETTER DATED 20-11-2013

TRUE COPY

P.A TO JUDGE

SMM

T.R.RAMACHĀNDRAN NAIR
&
P.V. ASHA, JJ.

.....
M.A.C.A. No.2384 of 2010

.....
Dated this the 30th day of March, 2015.

J U D G M E N T

T.R.Ramachandran Nair

The appellants are respectively the owner and driver of the vehicle involved in an accident. The same is a bus having registration No.KLP/9884. The claim petition was filed alleging that the claimant sustained injuries in the accident on 18-7-1997 while boarding the bus as the driver took the bus forward suddenly. This resulted in the claimant falling down and sustaining injuries. He filed a claim petition and subsequently he died and his legal representatives were impleaded.

2. We are not called upon to decide anything regarding the quantum of compensation. The only contention raised is that the finding by the Tribunal that there was no valid licence for the driver is not correct.

3. The Tribunal directed the insurance company to recover the amount so paid from the appellants. Before this

Court, I.A No.1255/2015 is filed producing the driving licence, in response to which the Counsel for the fifth respondent, Insurance company has filed a statement. In paragraph 4, it is stated that at the time of the accident, the driver has valid and effective licence, and Annexure R5(a) letter from the insurance company has been produced. We have gone through the letter which shows that the driver was having a valid licence at the time of accident, ie; 18-6-1997 to drive a transport vehicle. The insurance company has confirmed in the said letter addressed to their counsel that as per the record he was holding a valid and effective licence at the time of the accident.

4. In the light of the above, the finding by the Tribunal in Paragraph 8 on issue No.2 cannot be supported. Therefore we vacate the finding that the driver had no driving licence to drive the vehicle at the time of the accident.

5. Therefore the appeal is allowed and the appellants are exonerated from the liability to pay the amount of

compensation to the insurance company. The learned counsel for the appellants submitted that for filing the appeal, Rs.25000/- has been deposited before the Tribunal. We permit the appellants to withdraw the said amount.

The appeal is allowed accordingly. There will be no order as to costs.

T.R.RAMACHANDRAN NAIR
JUDGE

smm

P.V. ASHA
JUDGE